

**Tennessee Ethics Commission**  
**June 24, 2008**

The Tennessee Ethics Commission met on June 24, 2008 at 8:30 a.m. at the State Library and Archives. Present were Commissioners Hall, Brown, Knight, Neal, Purser and Garland. Chairman Hall called the meeting to order at 8:38 a.m.

Chairman Hall announced a change in the agenda. After approval of the minutes of the May 27, 2008 meeting, the random selection of lobbyists for audit would be conducted. Special Counsel Janet Kleinfelter of the Attorney General's office was present to observe the selection process.

Chairman Hall called for the approval of the minutes. Commissioner Purser made the motion to approve the minutes and Commissioner Garland seconded. Following discussion, the minutes were approved 6-0 with corrections.

The random selection of lobbyists for audit purposes was next considered. Commissioner Purser stated that the Commission could not audit more than 4%, therefore, nineteen (19) lobbyists were selected for audit. The lobbyists randomly selected were (in order of selection):

Jane Fabian  
Rose Cox  
Garrett Wagley  
Nick Pavlis  
Larry "Mike" Williams  
David Seivers  
Holly McDaniel  
Steve Bivens  
Andrew Hackman  
Thomas Blalack  
Tommy Haun  
Michael Butler  
Billy West  
James Hamilton  
Ron Taylor  
Steve Adams  
Charles D. Welch, Jr.  
Fred Congdon  
Brad Lampley

General Kleinfelter indicated her approval of the selection process.

Old Business

OR 07-08 (Part 2) (Gerry Boaz requestor): General Counsel David Himmelreich began the discussion of the alternate staff draft #5. After discussion, Commissioner Brown made the motion to adopt staff alternate draft #5; Commissioner Purser seconded. Commissioner Knight

**Tennessee Ethics Commission**  
**June 24, 2008**

stated that there were a number of needed changes; Commissioner Brown said it was his intention to accept the staff draft in full.

He suggested adding a footnote that states the Commission decision was based on 3-6-307(b) and that other exceptions may apply. The motion to accept staff draft #5 was modified as described by Commissioner Brown. Commissioner Brown moved to accept the modification and Commissioner Purser seconded. The vote was 5-1 with Commissioner Knight voting no.

The Commission decided to modify the order of the agenda and proceed after the break with the show cause hearings and the Nebergall matter.

The show cause hearings began with discussion of the five local elected officials who were late in filing the January 31<sup>st</sup> disclosure. Staff recommendations were as follows.

Bill Henley – Filed January 6. Due to software problems, there was no record of filing and his filing was reconstructed. The staff recommended dismissal.

Don Malone – deceased. The staff recommended dismissal.

Larry Watlington – Filed day after Order to Show Cause was issued. No further proceeding was warranted because civil penalties for late filing cannot be imposed until 5 days following the receipt of the assessment letter. The staff recommended dismissal.

Ronald Bell – Order to Show Cause received by Mr. Bell on May 8; disclosure filed on May 20. Staff recommended \$175.00 fine.

Wicky Shepherd: Order to Show Cause was received on May 12; no disclosure has been received. Staff recommended \$750.00 fine.

Commissioner Purser moved to accept the staff recommendations on Mr. Bell and Mr. Shepherd and Commissioner Brown seconded. Motion approved 6-0.

The following actions were considered against employers of lobbyists for failure to file the semi-annual expenditure report:

American Commissary Supply – Commissioner Knight made the motion that because ACS provided sufficient reason for good cause, ACS should not be fined. Commissioner Neal seconded. Motion passed 5-1 with Commissioner Purser voting no.

Fresenius – Commissioner Brown made the motion that there was no good cause and to accept the staff recommendation of a \$475.00 fine; Commissioner Knight seconded. Motion passed 6-0.

**Tennessee Ethics Commission**  
**June 24, 2008**

American Legal Finance Association – Commissioner Brown moved to accept the staff recommendation of good cause; Commissioner Garland seconded. Motion passed 6-0.

Electric Mobility Corp. – Commissioner Purser made the motion of no good cause and to accept the staff recommendation of a \$500.00 fine; Commissioner Garland seconded. Motion passed 6-0.

Clay Enterprises – Commissioner Purser moved to find no good cause but to reduce the staff recommendation of a \$500 fine by \$100 and assess Clay Enterprises \$400.00. Commissioner Brown seconded. Motion passed 6-0.

Hanscomb Faithful and Gould – Commissioner Knight made the motion to find no good cause and to fine Hanscomb \$525.00; Commissioner Purser seconded. Motion passed 6-0.

Generic Pharmaceutical – The Commission heard a statement from a representative of Generic Pharmaceutical. Commissioner Garland made a motion that good cause was not shown, but good faith was and that there should be a zero penalty. Commissioner Purser seconded and the motion passed 6-0.

G3 Home Medical – Commissioner Knight made the motion to find good cause and Commissioner Neal seconded. Motion passed 6-0.

Life Insurance Settlement Association – Commissioner Purser made the motion to find no good cause and to impose a \$375 fine; Commissioner Brown seconded. Motion passed 6-0.

Meharry Medical College – Commissioner Purser moved to find no good cause with a \$0 penalty; Commissioner Neal seconded. Motion passed 6-0.

Nashville Area Plumbing and Mechanical Association – Commissioner Purser made the motion to impose a \$500 fine. The motion failed for a lack of a second. Commissioner Brown moved to find no good cause and a \$300 fine; Commissioner Garland seconded. Motion passed 6-0.

Product and Learning Solutions (PALS) – Commissioner Brown made the motion to find no good cause and a \$525 fine; Commissioner Purser seconded. Motion passed 6-0.

People First – Commissioner Brown made the motion to find no good cause and a \$400 fine; Commissioner Knight seconded. Motion passed 6-0.

RCI Therapeutic – Commissioner Knight moved to find no good cause and impose a fine of \$375; Commissioner Purser seconded. The motion passed 6-0.

Riverside Publishing – Commissioner Brown made the motion to find no good cause and impose a fine of \$300; Commissioner Purser seconded. Motion passed 6-0.

**Tennessee Ethics Commission**  
**June 24, 2008**

Ruby Falls – Commissioner Knight moved that there was no good cause and to impose a \$500 fine; Commissioner Purser seconded. Motion passed 6-0.

Southern Four Wheel Drive Assn. – Commissioner Knight moved to find no good cause and assess a \$500 fine; Commissioner Purser seconded. The motion passed 6-0.

Southeastern Emergency Physicians – Commissioner Brown made the motion to find no good cause and assess a \$300 fine; Commissioner Purser seconded. The motion passed 6-0.

Taser International – Commissioner Knight made the motion to find good cause; Commissioner Brown seconded. The motion passed 6-0.

TN Assn. of Homes & Services for the Aging – Commissioner Knight made the motion to find no good cause and assess a \$500 fine; Commissioner Brown seconded. The vote was 5-0 (Commissioner Purser was not present for the vote).

TN Citizen Action – Commissioner Brown made the motion to find no good cause and to assess a \$350 fine; Commissioner Hall seconded. The motion passed 6-0.

TN Counseling Assn. – Commissioner Brown made the motion to find no good cause and to assess a \$350 fine; Commissioner Purser seconded. The motion passed 6-0.

Unisys – Commissioner Knight made the motion to find no good cause and to assess a \$300 fine; Commissioner Hall seconded. The motion passed 6-0.

The show cause hearing portion of the meeting was concluded and the Commissioner heard from Charlie Trost on Advisory Opinion 08-08 and then broke for lunch.

During the lunch break, the Commission heard a presentation by David Wooten, OIR, on web-based training. The Commission reconvened after the lunch break and Mr. Androphy sought authorization to pursue the web-based training. Commissioner Purser made the motion and Commissioner Garland seconded. Motion passed 6-0.

The Commissioner continued deliberation of AO 08-08 (Leonard Oliver, TDOT, requestor). Commissioner Knight made a motion that her draft be used as the basis of the opinion with staff input; Commissioner Neal seconded. The motion passed 4-2 with Commissioners Garland and Purser voting no.

The Commission next considered item #3 (In re Complaint) under Old Business. The Commission discussed the wording of the announcement of the formerly confidential complaint that became public 60 days after the Commission issued its finding. Commissioner Neal made the motion that the Commission should use the caption “shall be made public as of June 23, 2008.” Commissioner Hall seconded. Commissioner Knight offered a friendly amendment to

**Tennessee Ethics Commission**  
**June 24, 2008**

have the wording state “have become public records as of June 23, 2008.” The vote was 6-0. Commissioner Knight made the motion to reconsider; Commissioner Brown seconded.

Commissioner Knight moved to strike the name and insert the case number instead. Commissioner Hall seconded.

The Commission discussed the 72-hour rule. Commissioner Brown made the motion that within 48 hours after the 72 hour review of an opinion is circulated, any Commissioner who cast a dissenting, concurring, or other vote which was not for the main opinion shall circulate any dissenting, concurring, or other statement the Commissioner would like to have posted with the main opinion. If any Commissioner needs additional time, the Commissioner will notify the staff. Commissioner Purser seconded and the motion passed 6-0.

Mr. Androphy presented a fee waiver request to the Commission. Chairman Hall made the motion to grant the request; Commissioner Knight seconded and the motion passed 6-0.

The meeting adjourned at 3:00 p.m.